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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,777	01/05/2001	J. Murray Hill II	10772/3	3186

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EXAMINER

NGUYEN, TAN D

ART UNIT PAPER NUMBER

3629

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/755,777

Applicant(s)

HILL ET AL.

Examiner

Tan Dean D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-24 is/are pending in the application.
- 4a) Of the above claim(s) 15-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-14, 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The amendment filed 9/7/2004 has been entered.

Claim Status

Claims 1, 3-12, 13, 14 and 24 are active. Claims 15-23 are withdrawn.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1, 3-12, 13, 14 and 24 are rejected under 35 U.S.C. 103(a) as being obvious over ARTICLE 6/2000 in view of Applicant Admitted Prior Art (AAPA) or Vice versa.**

As for Independent method^{1/4} claim 1, ARTICLE 6/2000 discloses a burial option which meets the need of the claimed invention disclosed the specification, page 3, 1st paragraph, which is to provide people with an understanding that one's final resting place is among a community (Vietnamese veteran) that sees them a part (or hero) of its history ("a nation in gratitude"), allowing for an opportunity to relieve one's remaining relatives of the burden in planning burial, and at the same time provides community institutions a fund raising vehicle and allows them to become involved in the internment of people (children of deceased veteran) who see their lives intertwined with those institutions, comprising the steps of:

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(a) providing burial spaces for storing/housing the deceased person remains and
(b) selling said spaces to donors by an entity (Coalition of Veteran Associations of the Republic of Vietnam) for raising funds through the sale of the said spaces (or plot at a cost about \$4,800 each), wherein the donors are relatives of deceased person who were veterans of the Republic of Vietnam and were formerly associated with the entity (Coalition of Veteran Associations of the Republic of Vietnam) (see pages 1-2).

As for the issue of raising funds, this is inherently included in ARTICLE 6/2000 because selling the plot is one out of many related project to dealing with providing a proper cemetery for the veterans which would require financial funds to complete. AAPA discloses the selling of the plot at a cost of about \$4,800.00 which is pretty expensive. However, in view of the previous issues discussed in which the group also created a financial assistance program for veterans and their spouses who could not afford to pay for funeral expenses and other related projects such as building a wall to list the names of South Vietnamese veterans who died in the war, it appears that selling the plot at a good price is a part of a campaign for raising funds to help out those who need financial assistance and completing other related project. Alternatively, it would have been obvious to a skilled artisan (or entity) to conduct a process for raising funds by selling the space to donor at a good price who can afford it (200 out of 300) to provide a resting place that honor the dead in a dignified way and also provide an extra fund to help those who cannot afford the price.

Therefore, ARTICLE 6/2000 discloses the claimed invention except for:

(1) carrying out step (a) by a provider of burial structures, and

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(2) with a storage and display case, wherein the storage and display case comprises a plurality of spaces for housing a single (or plurality of) cremation storage vessel in each space.

As for limitation (1), it's well known in the funeral/cemetery management that the cemetery park management normally provides respective burial structures and manages the cemetery facilities including mausoleum, ground keeping, graveyard or tomb because this is the most effective way using professional and local people. This is mentioned by ARTICLE 6/2000 on page 2, see "Westminster Memorial Park" or AAPA, page 2, last paragraph. Therefore, it would have been obvious to use a well known professional cemetery provider to provide burial structures since it's conventional practice and/or this is most effective way take care miscellaneous items in (a).

Therefore, ARTICLE 6/2000 discloses the claimed invention except for limitation (2) which deals with well known types of housing/storing the deceased remains, (i) cremains or cremations in a storage vessel vs. (ii) burying the remains in the plot as disclosed in ARTICLE 6/2000.

AAPA is cited to teach well known types of burying the deceased person in (i) cremains in storage vessel with display case to show memorabilia and pictures of the deceased (page 2, 2nd paragraph) or (ii) burying the remains in the plot (page 2, 3rd paragraph). It's well known that the type (i) is normally cheaper than (ii) due to less space/plot (real estate) and storage/preparing steps (small cremation storage vessel vs. a coffin) and especially in place where land is expansive such as California as in the ARTICLE 6/2000. Moreover, the selective type of burial or burying parameters, this is

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considered as result effective variable or parameter because this varies with culture, religion, degree of honoring, cost, space, etc. For example, cemetery burial is traditional or accustomed in the selective East (Vietnamese) culture and cost is not an issue since honoring the dead is very high, while cremation is well known practice in the West, especially in the United States, see Background of the invention. Therefore, the difference is not critical and would have been obvious to a skilled artisan as mere optimizing operating conditions or result effective variables and the optimizing of result effective variables is considered as routine experimentation to determine optimum or economically feasible reaction conditions, i.e. meeting desired culture, religion, degree of honoring, cost, space, etc., and would have been obvious to the skilled artisan, absent evidence of unexpected results. See *In re Aller*, 105 USPQ 233.

Also, it's well known that the type of burying depends on the culture, i.e., cremation is acceptable in the West or United States while burying the deceased in the ground is popular in Vietnamese culture and the relatives, who normally love the deceased one so much, are willing to pay a high price for this type of burying.

Therefore, it would have been obvious to modify the burial step (a) of ARTICLE 6/2000 by using cremation storage vessel with display as mentioned by AAPA as mere using other well known alternative to reduce cost if desired.

Alternatively, AAPA discloses step (a) of the claimed invention. AAPA fails to teach step (b). The teaching of ARTICLE 6/2000 is cited above. It would have been obvious to modify the teaching of AAPA by carrying step (b) as taught by ARTICLE 6/2000 to allow the burying of the deceased in a dignified/honor manner (plots adjoin

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the Asian Garden of Peaceful Eternity marked by a pagoda and reflecting ponds) and where the deceased persons can be treated as hero and served as a powerful reminder of all that had come before ("A nation in gratitude" of the veterans who fought battles to protect the country).

As for dep. Claims 3-4 (part of 1 above) which deal with a financial payment methods between the provider (Lender) with the entity in exchange for a portion or (a) revenue or (b) funds raised from sales of the spaces or transaction parameters, since ARTICLE 6/2000 discloses the obtaining of a loan from a lender to buy the 300 plots, the option of the Lender to provide other well known alternative options for paying the loan such as taking a portion of a revenue or funds raised instead of regular loan payments would have been obvious if desired as mere using other well known alternatives.

As for dep. Claim 5 (part of 1 above) parts (a) and (b) which deals with well known financial transaction steps between the donor and the entity or transaction parameters, i.e. deposit, installment payment type, etc., it would have been obvious to perform these well known steps to complete the purchasing of the lot and service. As for (c), this is rejected for the same reasons set forth in dep. Claims 3-4 above.

As for dep. Claim 6 (part of 1 above) which deals with a type of display or display parameter, i.e. veteran's memorial plaque, this is taught in ARTICLE 6/2000 page 2, "a granite marker bearing the inscription: "A nation in gratitude").

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As for dep. Claims 7-8 (part of 1 above) which deals with a type of organization or organization parameter, a veteran's organization and/or non-profit institution, this is taught in ARTICLE 6/2000 page 1.

As for dep. Claim 9 (part of 1 above) which further limits the storage and the display to be on the Entity's property, this is taught in ARTICLE 6/2000 page 2.

As for dep. Claims 10-11 (part of 1 above) which further limits the ashes of the deceased person, these are taught in ARTICLE 6/2000 in view of AAPA or vice versa.

As for dep. Claims 12 (part of 1 above) which deals with the associating of the Entity with a cremation society to help the family members with the ritual obligations associated with death, it would have been obvious to do so in view of the different burial type in ARTICLE 6/2000 wherein due to lower cost structure of cremation, i.e. \$1000.00/space, a connection to a cremation society to do what described above would be beneficial especially dealing with a different culture/tradition (Vietnamese) and religion (Buddhist) where burying is popular or acceptable and putting yellow flowers and incense on the graves are well known practices to honor the dead.

Alternatively, the adjusting of well known (a) burial or (b) institution or (c) financial transaction parameters/variables as described above is considered as optimizing operating conditions or result effective variables/parameters and the optimizing of result effective variables/parameters for (a) or (b) or (c) is considered as routine experimentation to determine optimum or economically feasible conditions and would have been obvious to the skilled artisan, absent evidence of unexpected results. In re

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Aller, 105 USPQ 233. There are no evidence of unexpected results on these parameters shown in this case.

Independent method^{2/4} claim 13 or **method^{4/4} claim 24** which has similar limitation as in dep. Claims 4 and 1, it's rejected for the same reason set forth in dep. Claim 4 above. As for the further features of the storage and display case (i), (ii), (iii), and (iv), the selection of various features would have been obvious in view of the general teachings disclosed in AAPA page 2, 2nd paragraph.

Alternatively, the adjusting of well known (a) storage and display parameters/variables as described above is considered as optimizing operating conditions or result effective variables/parameters and the optimizing of result effective variables/parameters for (a) is considered as routine experimentation to determine optimum or economically feasible conditions and would have been obvious to the skilled artisan, absent evidence of unexpected results. In re Aller, 105 USPQ 233. There are no evidence of unexpected results on these parameters shown in this case.

Independent method^{3/4} claim 14 which has similar limitation as in dep. Claim 4 (part of 1 above) is rejected for the same reason set forth in dep. Claim 4 above. As for the further features of the storage and display case (a), (i), and (ii), the selection of various features would have been obvious in view of the general teachings disclosed in AAPA page 2, 2nd paragraph.

Alternatively, the adjusting of well known (a) storage and display parameters/variables as described above is considered as optimizing operating conditions or result effective variables/parameters and the optimizing of result effective

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variables/parameters for (a) is considered as routine experimentation to determine optimum or economically feasible conditions and would have been obvious to the skilled artisan, absent evidence of unexpected results. In re Aller, 105 USPQ 233. There are no evidence of unexpected results on these parameters shown in this case.

3. Claims 13, 14, and 24 are rejected (2nd time) under 35 U.S.C. 103(a) as being unpatentable over ARTICLE 6/2000 in view of WEISS (US patent 6,088,973).

The teaching of ARTICLE 6/2000 is indicated above.

WEISS is merely cited to teach conventional columbarium with improved display indicia (messages and images) for the personal memory of the deceased person (Fig. 102, 103, 128-134, cols. 15, 18).

It would have been obvious to modify the process of ARTICLE 6/2000 by using a well known columbarium as taught by WEISS to improve display indicia (messages and images) for the personal memory of the deceased person. Alternatively, the use of columbarium in WEISS would inherently reduce the space required for burial in a limited space where real estate is expensive. Note also the structures of the apparatus carry little patentable weight in a method claims wherein the steps of doing business, in this case, raising funds by selling burial plots in exchange for campaign contribution, is critical to the invention.

Response to Arguments

4. Applicant's arguments, see paper filed 9/7/2004, with respect to the rejections of claims 1-12, 13-14, 24 under 102/103 over ARTICLE 11/1997 have been fully considered and are persuasive. The rejections of claims 1-12 have been withdrawn.

5. Applicant's arguments, see paper no. 8, filed 3/11/04, with respect to the 103 rejections of claims 13, 14, and 24 over over ARTICLE 6/2000 in view of Applicant Admitted Prior Art (AAPA) or Vice versa, have been considered but deemed not persuasive.

Applicant's comment with respect to the significant of the difference in the type of burial, i.e. cemetery burial vs. cremation, in ARTICLE 6/2000 and AAPA, is not persuasive because of the reasons set forth in the rejection of claim 1 above, ARTICLE 6/2000 discloses a burial option which meets the need of the claimed invention disclosed the specification, page 3, 1st paragraph, which is to provide people with an understanding that one's final resting place is among a community (Vietnamese veteran) that sees them a part (or hero) of its history ("a nation in gratitude"), allowing for an opportunity to relieve one's remaining relatives of the burden in planning burial, and at the same time provides community institutions a fund raising vehicle and allows them to become involved in the internment of people (children of deceased veteran) who see their lives intertwined with those institutions. ARTICLE 6/2000 stresses the importance of "togetherness" "or being together", i.e. "we fought battles together; we should die in peace together". As for the selective type of burial or burying parameters,

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this is considered as result effective variable or parameter because this varies with culture, religion, degree of honoring, cost, space, etc. For example, cemetery burial is traditional or accustomed in the selective East (Vietnamese) culture and cost is not an issue since honoring the dead is very high, while cremation is well known practice in the West, especially in the United States, see Background of the invention. Therefore, the difference is not critical and would have been obvious to a skilled artisan as mere optimizing operating conditions or result effective variables and the optimizing of result effective variables is considered as routine experimentation to determine optimum or economically feasible reaction conditions, i.e. meeting desired culture, religion, degree of honoring, cost, space, etc., and would have been obvious to the skilled artisan, absent evidence of unexpected results. See *In re Aller*, 105 USPQ 233.

As for the argument with respect to “two parties: entity and donor” in ARTICLE 6/2000 vs. “three parties: provider, entity and donor” in the claimed invention, this is not persuasive in view of the teaching of using a provider as shown in the rejection of claim 1 above.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

No claims are allowed.

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7. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiner. As the official records and applications are located in the clerical section of the examining Tech Center, the clerical personnel can readily provide status information without contacting the examiner. See MPEP 203.08. The Tech Center clerical receptionist number is (703) 308-1113

Or see <http://pair-direct.uspto.gov>

In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (703) 306-5771, or e-mail CustomerService3600@uspto.gov .


Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (703) 308-2053. My work schedule is normally Monday through Friday from 7:00 am through 4:30 pm.

Should I be unavailable during my normal working hours, my supervisor John Weiss may be reached at (703) 308-2702. The FAX phone numbers for formal communications concerning this application are (703) 305-7687. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

Other possibly helpful telephone numbers are:

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/ 8335
Fee Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408
Information Help Line	1-800-786-9199

dtn
December 15, 2004


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